

AN ORDINANCE approving and authorizing an Information Resources Management Agreement between the City of Fort Wayne and Systems and Computer Technology Corporation ("SCT"),

WHEREAS, the City of Fort Wayne desires to implement certain economies and efficiencies within its Data Processing Department; and

WHEREAS, said economies and efficiencies can best be achieved through the retention of the services of an information resources management firm experienced in the management and operation of local and municipal government information systems; and

WHEREAS, SCT is in the business of supplying such services and is experienced in the management and operation of local government information systems and currently manages and operates the information system for Allen County, Indiana.

WHEREAS, the City of Fort Wayne desires to retain SCT to provide the services outlined in a certain proposed Information Resources Management Agreement, two copies of which are on file in the Office of the City Clerk and made available for public inspection, according to law.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

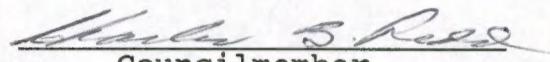
SECTION 1. That the proposed Information Resources Management Agreement by and between the City of Fort Wayne, Indiana, and SCT, is hereby ratified and approved in all respects. The appropriate City officers are hereby authorized and empowered to sign the same on behalf of the City.

PAGE TWO

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2 SECTION 2. That this Ordinance shall be in full force  
3 and effect from and after its passage and any and all  
4 necessary approval by the Mayor.

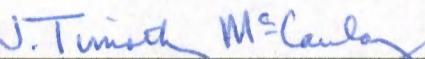
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Charles S. Ross  
Councilmember

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7 APPROVED AS TO FORM  
8 AND LEGALITY

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11 J. Timothy McCaulay, City Attorney

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## INFORMATION RESOURCES MANAGEMENT AGREEMENT

THIS AGREEMENT is entered into as of May 1, 1988, by and between Systems & Computer Technology Corporation ("SCT"), a Delaware corporation, with offices at Great Valley Corporate Center, 4 Country View Road, Malvern, Pennsylvania, 19355, and The City of Fort Wayne, Indiana ("Client"), with offices at City/County Building One, Main Street, Fort Wayne, Indiana 46802.

### BACKGROUND

The Client desires to retain SCT to provide certain data processing, systems development, and other services, which is in the business of supplying such services.

NOW THEREFORE, in consideration of the premises and covenants hereinafter contained, and intending to be legally bound hereby, SCT and Client agree as follows:

1. TERM. This Agreement shall be effective commencing May 1, 1988 (the "Effective Date"), and shall continue until May 1, 1994.

2. INFORMATION RESOURCES MANAGEMENT SERVICES AND SYSTEMS.

(a) On the Effective Date of this Agreement and thereafter as provided herein, SCT will provide to the Client the services described in Exhibit A, which is attached hereto and incorporated herein by this reference.

(b) In order to perform the services described in Exhibit A, SCT will staff and manage the operation of the Client's data processing equipment, software operating systems, and software applications systems (collectively the "Computer Systems") in use at the execution of this Agreement, or such other equivalent configurations which do not increase the level of resources, time, cost or effort required to perform the services described in Exhibit A.

(c) The Computer Systems shall be located within the facilities of the Client.

(d) The Client agrees to permit SCT's authorized personnel, and third parties as may be authorized by SCT, access to the Computer Systems at all times, for the purposes of managing the operation thereof, and for all other purposes reasonably necessary or appropriate to permit SCT to perform its obligations hereunder.

(e) The Client and SCT mutually agree not to remove or alter in any way markings or other forms signifying ownership of the Computer Systems.

(f) In order to permit SCT to perform its obligations hereunder, the Client personnel shall not operate the Computer Systems to be utilized by SCT hereunder except upon the prior written agreement of SCT, which agreement shall not unreasonably be withheld. SCT personnel shall comply with the rules of the Client with respect to access to the Client's offices and records.

(g) SCT shall implement the security and safety measures established by the Client relating to the Client's data processing facilities which, at a minimum, will conform with industry standards to prevent access to the Computer Systems by other than authorized personnel.

(h) The Client agrees to make its personnel available to SCT so that SCT may consult with such personnel in order to permit SCT to perform its obligations hereunder.

(i) SCT shall manage, with the advice and consent of Client, the Client's expenses (other than for personnel services) in connection with its computer center and the Computer Systems, including without limitation the purchase of supplies, software, hardware and maintenance ("SUPPLIES"). SCT shall submit to Client a budget for SUPPLIES for each calendar year during the term of this Agreement; provided that the budget for SUPPLIES for calendar year 1989 shall not exceed \$647,000 ("COST"). For 1989, SCT shall be solely liable for payment of the first \$30,000 of expenditures for SUPPLIES in excess of the COST. Client shall be solely liable for expenditures for SUPPLIES to the extent that such expenditures exceed \$677,000. In the event that expenditures for SUPPLIES for calendar year

1989 are below COST, Client shall pay SCT, on or before January 31, 1990, one-half (1/2) of the amount by which expenditures for SUPPLIES are below COST. In order to maintain its tax-exempt status, Client shall pay all SUPPLIES expenses, and no such SUPPLIES expenses are included in the amounts to be paid to SCT by Client under Exhibit B of this Agreement.

(j) During the term of this Agreement, the Client shall provide to SCT the following in order to permit SCT to perform its obligations hereunder:

(i) All consumable and reusable computer operating supplies existing on the Effective Date such as computer printer paper, special forms, ribbons, microfilm, magnetic tapes, disk packs and such other computer related supplies as are required to provide the services described in Exhibit A.

(ii) The necessary and appropriate floor and office space and modifications to space and facilities for both the Computer Systems and all personnel.

(iii) Any necessary leasehold improvement, such as electrical conduit, air conditioning and power which may be required in order to conform with the manufacturer's specifications for any Computer Systems utilized by SCT under this Agreement.

(iv) All utilities, including special power and air conditioning for the Computer Systems utilized by SCT hereunder. This includes electrical power and environmental conditioning capacity to meet vendor specifications for operation of computing equipment and storage of computer supplies, and adequate equipment to provide the electrical power continuity required to meet the Client's need for on-line computing continuity and responsiveness on a twenty-four hour a day, seven day a week operation basis.

(v) Necessary general office equipment such as desks, chairs, typewriters, files, supplies, and telephone service, including data communications equipment and service, plus any additional equipment or service reasonably required to accommodate SCT personnel.

(vi) Security and janitorial support for the Client's data processing facilities.

(vii) Reproduction capability for all reports and documentation due to the Client under this Agreement.

(viii) Fire protection equipment to protect against the destruction of the Computer Systems and computer data stored on-site.

(ix) Storage in a building not necessarily attached to the Client's data processing facilities for historical files and back up materials with which to rebuild data files in the event working files are destroyed because of natural disaster, fire, riots or other such causes. The Client shall make reasonable efforts to provide a vault area adequate to protect tapes, disks, and other working computer files from the hazards of theft, fire, hurricanes, and other natural disasters for up to five (5) hours, or other reasonable time period.

(x) On-site storage for expendable computer supplies (e.g., forms, paper, cards) to provide a working level of such supplies on hand at all times. On and off-site storage and delivery service to facilitate bulk purchasing, with immediate access to at least five (5) days of supply and two-three (2-3) day access to at least a thirty (30) day supply.

(xi) Parking spaces at the same cost and to the same extent parking is available to the Client's employees performing similar functions.

(k) Any changes in physical support provided by the Client (e.g., planned water or power outages and repair work) shall be promptly brought to SCT's attention to allow SCT to evaluate the impact on computer center operations and, where possible, to take action to minimize the effect on such operations.

(l) SCT shall not, without the prior written approval of the Client, sell or give to a third party machine time on any Computer Systems that it is authorized to manage and operate under this Agreement. SCT shall not use the Computer Systems for purposes other than its obligations under this Agreement unless, and to the extent, approved by the Client.

(m) SCT shall not charge any additional fees other than as provided herein for hiring or engaging services of experts or consultants to perform its duties provided for herein without the prior written approval of Client.

**3. PERSONNEL EMPLOYMENT.**

(a) Client shall make available to SCT all its current data processing personnel for employment by SCT. Except as specifically provided to the contrary herein, all employees of Client accepting employment with SCT shall be retained for ninety (90) days after the Effective Date (the "Transition Period").

(b) The level of compensation of Client employees accepting employment with SCT shall be at least equal to that paid by the Client as of the Effective Date.

(c) During the Transition Period, SCT shall review each such employee. SCT may in its discretion terminate any employee for any reason subsequent to the Transition Period. With regard to all former employees of Client who join SCT, Client shall, upon the resignation of any such former employee prior to the expiration of the Transition Period, pay to each such employee any amounts which Client would have paid to each such former employee if such former employee were then employed by Client, including without limitation severance, vacation, sick, and holiday pay. Client agrees to indemnify, defend and hold SCT harmless from any and all suits, claims, liabilities, judgments, damages, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with the resignation from SCT of any former Client employees prior to the expiration of the Transition Period. Except as otherwise provided above, SCT agrees to indemnify, defend and hold Client harmless from any and all suits, claims, liabilities, judgments, damages, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with the termination of employment with SCT of any former Client employees during, upon or after the expiration of the Transition Period.

(d) Client shall provide to SCT an accounting of sick leave and vacation accrued as of the Effective Date for all Client employees who are employed and retained by SCT for the period extending beyond the expiration of the Transition Period. In this connection, Client shall accept the liability for the use of any such accrued vacation days consistent with its usual and customary policy, and SCT shall

accept the liability for the use of any such accrued sick leave benefits (not to exceed 90 days) consistent with SCT's sick leave policy. SCT shall allow and permit the accrual of additional sick leave and vacation benefits consistent with its sick leave and vacation policy. Upon the termination of this Agreement or interim phase-over of personnel to Client, SCT will assume liability for the accrued balance of vacation, and Client will assume liability for the accrued balance of sick leave (not to exceed 90 days), consistent with its respective policies, for those individuals re-employed by the Client.

(e) Except as provided herein, SCT shall not offer employment to any Client personnel and Client shall not offer employment to any SCT personnel without written agreement from both parties for the period commencing on the Effective Date and extending until the expiration of six (6) months after the Termination Date.

#### **4. COST AND PAYMENT.**

(a) SCT will invoice the Client on the first business day of each month during the term of this Agreement for services during such month in an amount equal to the amount set forth in the schedule contained in Exhibit B, which is attached hereto and incorporated herein by this reference.

(b) All amounts due hereunder shall be paid by the Client to SCT within thirty (30) days after receipt of invoice. All amounts not paid when due hereunder shall bear interest at a rate of interest per annum equal to the prime rate plus three (3%) percent established from time-to-time by Hamilton Bank (N.A.), Lancaster, Pennsylvania, or at such lower rate equal to the maximum legal rate.

(c) Client shall be responsible for the payment of personal property taxes on any equipment or software, and shall be responsible for any sales, use or excise taxes levied or assessed on equipment, software and/or services furnished by SCT under this Agreement.

#### **5. MEETINGS AND REVIEWS.**

(a) The SCT Site Director shall be responsible for maintaining informal day-to-day contact with the Client's designated Contract Administrator (see Section 18 below).

(b) The SCT Site Director, together with a member of the management of SCT, as determined by SCT, shall meet annually (on such date as is mutually agreeable to the parties) with the Board or Committee responsible for data processing services and such other Client officials as such Board or Committee shall deem necessary and appropriate to make a presentation to review the progress of SCT's performance and operations during the past year and SCT's plans for the ensuing year.

6. REPORTS. During the term of this Agreement, SCT shall submit, on a monthly basis, status reports to the Client's designated Contract Administrator. The reports will include the progress of work being performed, the milestones attained, the problem areas encountered and corrective action taken or to be taken.

7. RIGHTS TO SYSTEMS APPLICATION SOFTWARE.

(a) The Client shall retain all right, title and interest in and to the Client's proprietary computer systems application software (collectively "programs") in operation at the Effective Date of this Agreement. SCT shall have no right, title or interest in or to such programs for any purpose, except the right to use, modify, enhance and operate such programs in order to perform services hereunder and as may be expressly set forth herein or in a separate written agreement executed between the parties. SCT shall retain all right, title and interest in and to its proprietary software, and the Client shall have no right, title or interest in or to such programs for any purpose. All right, title and interest to any programs owned by either SCT or the Client and all modifications and/or enhancements thereof made by SCT hereunder shall remain in the original owner of such programs.

(b) The Client shall own all right, title and interest to any new software programs and associated documentation developed under this Agreement where personnel provided by SCT hereunder perform only the actual program coding in connection with the new software programs from specifications provided to SCT by the Client. SCT shall own all right, title and interest to any new software programs and associated documentation developed under this Agreement if SCT performs other services in connection with the development of the new software programs in addition to performing the actual program coding in accordance with the specifications. In the latter case, where SCT is the owner of the new software program(s), SCT shall grant to the Client a perpetual, non-exclusive, non-transferable free license to use such new software program(s) for its in-house

computing needs pursuant to the terms and conditions of SCT's then current software license agreement. Each party agrees to execute such documents and other materials as may be reasonably requested by the party which owns the new software developed hereunder pursuant to the terms of this Section 7(b) to obtain protection for such new software and to perfect exclusive title thereto in the owner of such new software, at the sole cost of the owner.

(c) During the term of this Agreement, SCT shall have access to and use of all Client-owned programs and associated documentation, as well as all third party-owned proprietary software packages currently or hereafter used by Client, for use by SCT in processing data for the Client and performing other services to be provided by SCT hereunder, or for any other purpose authorized by the Client

(d) SCT, in the performance of its services hereunder, will not do anything which will result in a default by Client under any provisions of any data processing related contracts and leasing agreements between Client and a third party. SCT shall indemnify, defend and hold Client harmless from any and all suits, claims, liabilities, damages, judgments, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with a breach of SCT's responsibility set forth above.

#### 8. INSPECTION.

(a) SCT agrees to provide access to the Client records in its possession to the Client's internal auditors and to such other authorized parties as the Client may designate.

(b) All work performed under this Agreement shall be subject to inspection by the Client to the extent practicable during normal business hours and upon reasonable notice to SCT. All inspections by the Client shall be performed in such a manner as not to unduly delay the work being performed by SCT hereunder, and shall be at the sole cost of Client.

9. CONFIDENTIAL INFORMATION. Each party agrees (i) to treat the other's confidential information as proprietary to the other, (ii) that it will not knowingly disclose to any person or entity not a party to this Agreement except as ordered by a court of competent jurisdiction, or use for its own or any such person's or entity's benefit, any confidential information belonging to the other party to this

Agreement without that other party's prior written consent, and (iii) that it will use all reasonable effort to maintain the confidentiality of all confidential information of the other party to this Agreement and to prevent the unauthorized disclosure and dissemination of any of that confidential information to any such person or entity. In no event will any party hereto use less care to maintain the confidentiality of the other party's confidential information than it uses to maintain the confidentiality of its own information of equal importance. Information shall be deemed confidential for the purposes of this Agreement only (i) if disclosed in writing, it is clearly marked as confidential or (ii) if disclosed orally, it is clearly identified in writing as confidential within fifteen (15) days after its oral disclosure.

Confidential information does not include information that (i) is or becomes known to the public without fault or breach on the part of the party to this Agreement seeking to disclose it, (ii) the owning party regularly discloses to third parties without restriction on disclosure, (iii) the party to this Agreement seeking to disclose it receives from a party other than a party to this Agreement without restriction on disclosure and without breach of a nondisclosure obligation, (iv) is independently developed by the receiving party without the benefit of the disclosure, (v) is already known to the receiving party at the time of disclosure, or (vi) is required to be disclosed by operation of law.

Notwithstanding the termination of this Agreement, the nondisclosure and nonuse obligations set forth above will remain in full force with respect to each item of confidential information for a period of ten (10) years after the first receipt of that item by one party to the Agreement from the other.

**10. COMPLIANCE WITH APPLICABLE LAWS.** SCT agrees that performance of services under this Agreement will be subject to regulation and examination of all appropriate regulatory agencies of the Federal, State and Local Governments, to the same extent as if such services were being performed by the Client for itself on its own premises. This Agreement is expressly made subject to all such laws, ordinances, rules and regulations. In the event that compliance by SCT with future laws will involve the incurrence of additional costs or affect performance schedules, there shall be a price and/or performance schedule adjustment commensurate with additional costs or effect on performance schedules.

## **11. FORCE MAJEURE.**

(a) SCT's Inability to Perform. SCT shall not be liable for any failure to perform its obligations under the Agreement if prevented from doing so, in whole or in part, by a cause or causes beyond its control. Without limiting the generality of the foregoing, such causes include Acts of God, fires, floods, storms, earthquakes, other disasters, riots, strikes, lockouts, other labor disputes, wars or war operations, civil disturbance, restraints of government or any other cause or causes which could not with reasonable diligence be controlled or prevented by SCT.

(b) Client's Insufficient Funding. Client believes that sufficient funds can be obtained to pay all amounts due SCT throughout the term of this Agreement and hereby covenants and agrees that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which payments hereunder may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved. It is Client's intent to make all payments due hereunder for the entire term of this Agreement if funds are legally available therefor and in that regard Client represents and warrants to SCT that the services to be performed by SCT hereunder are important to its proper, efficient and economic operation. In the event insufficient funds are appropriated and budgeted or are otherwise legally available by any means whatsoever in any fiscal period for payments due under this Agreement, then Client will immediately notify SCT of such occurrence and SCT may either (a) reduce its staffing and level of services to the amount so budgeted or (b) notify Client that this Agreement will expire effective on the last day of the fiscal period for which appropriations were received. If no funds are appropriated or budgeted or otherwise legally available, then Client will immediately notify SCT of such occurrence, and this Agreement will be deemed expired effective on the last day of the fiscal period for which appropriations were received. Any such premature expiration effected pursuant to this Section 11(b) shall be subject to the provisions of Section 13(c). Notwithstanding the foregoing, Client agrees that the provisions of this Section 11(b) will not apply if any funds are appropriated to it, or by it, for the acquisition, retention or operation of data processing services or other services similar to which are being provided by SCT hereunder, and that it will not during the term of this Agreement give priority in the application of funds to any other similar services. Further, nothing in this Section

11(b) will be construed so as to permit Client to reduce the level of services to be provided by SCT hereunder, or effect a premature expiration of this Agreement, in order to acquire any other data processing or similar services or to allocate funds directly or indirectly to perform essentially the same application for which services are being provided, including the performance of the services by Client itself.

**12. PREVENTION OF PERFORMANCE BY COURT ORDER.** In the event a court of competent jurisdiction should render a final order or final judgment enjoining or restraining performance of this Agreement by either or both parties hereto, or in the event such a court should declare this Agreement void or illegal, then each party is relieved and dissolved of all obligations hereunder, subject, however, to the provisions of Section 14 and payment of all amounts to SCT for work performed and products licensed or provided, determined in accordance with Section 13(c) below.

Client agrees to defend and assert the legality of this Agreement in any litigation arising out of this Agreement brought by third parties in which the Client is named as a party defendant or respondent and to vigorously pursue such defense in any and all appropriate courts. Client further agrees to defend, indemnify and hold SCT harmless from any and all suits, claims, liabilities, judgments, damages, settlements, debts, costs, awards, and expenses, including attorneys' fees and expenses, in connection with the assertion of the illegality of this Agreement or the enjoining or restraining of SCT's performance of services hereunder.

**13. TERMINATION.**

(a) This Agreement may be terminated by either party hereto in the event the other party fails to substantially perform its obligations under this Agreement. Such termination must be in writing and shall be effective (the "Termination Date") either (i) ninety (90) days after receipt of such notice, unless the default is cured or remedial steps are taken to cure said default within ninety (90) days after receipt of such notice, or (ii) thirty (30) days after the Client's receipt of written notice from SCT for the Client's failure to make payments due hereunder within thirty (30) days after receipt of invoice. In the event the default complained of is cured or remedial steps are taken to cure said default within said ninety (90) day period, or if the default is for nonpayment, such payment is received by SCT within the aforementioned thirty (30) days, this Agreement shall continue as if such notice had not been given. In the event SCT files a voluntary petition in bankruptcy or

remains an involuntary petitioner in bankruptcy for a period exceeding ninety (90) days, Client shall have the right to offer employment to SCT employees then assigned to Client's site or previously assigned within the one hundred eighty (180) day period preceding, to perform the services necessary to maintain Client's site. Notwithstanding the foregoing, however, and without limitation thereon, Client can terminate this Agreement, at its sole and exclusive option, effective August 31, 1993 if SCT receives written notice from Client on or before July 1, 1993 that Client desires to so terminate this Agreement. In the event of such termination, Client shall have no liability to pay to SCT the payments set forth in Exhibit B (attached hereto and incorporated herein by reference) for calendar year 1994. However, notwithstanding the termination effective August 31, 1993, Client shall nevertheless make all payments to SCT for September through December, 1993 at the time such payments would have been due if the Agreement were terminated December 31, 1993.

(b) Termination pursuant to any provisions of this Section 13 shall be subject to the provisions of Section 14 below, except a termination for Client's failure to timely pay for services rendered by SCT hereunder.

(c) Within ninety (90) days after the expiration date or any earlier termination date, SCT shall submit an invoice to Client which shall include the following:

(i) An amount for all services and property (payment for which has not been made), performed or delivered prior to the expiration date or any earlier termination date.

(ii) All payments due pursuant to this Section shall be due and payable within thirty (30) days after receipt of invoice by the Client.

#### **14. PHASEOVER UPON TERMINATION.**

(a) Not less than sixty (60) days prior to the Termination Date, unless this Agreement is terminated by SCT by reason of Client's failure to timely pay for services rendered by SCT hereunder, SCT shall submit to the Client a written plan for turning responsibility for performance of the effort and services provided hereunder over to the Client. Implementation of such phaseover plan shall commence upon its approval by the Client and shall be completed on or before the

Termination Date. At such time, SCT shall make available to the Client such personnel as necessary for the provision and maintenance of data processing services and shall use its best efforts and cooperation to effect an orderly transition of personnel back to the Client.

(b) During the implementation of the phaseover plan, SCT shall train designated Client personnel in the operation and maintenance of the systems used and operated in providing services hereunder. At the option of the Client, SCT shall provide such additional training for a period not exceeding one hundred eighty (180) days after the Termination Date so long as this Agreement is not terminated by SCT by reason of Client's failure to timely pay.

(c) Performance by SCT personnel after the Termination Date of any training or system completion, implementation or other task shall be invoiced to the Client at SCT's then current standard time and material billing rates and shall be paid by Client within thirty (30) days after receipt of invoice.

(d) At least forty-five (45) days prior to the Termination Date, the Client shall provide written instructions for the return or disposition of all material and data of the Client at the Client's expense. If such timely instructions are not received, SCT shall leave such materials in the Client's data processing facilities, and shall not be responsible for any theft, loss or damage thereto, or for any expenses or damages incurred by the Client in connection therewith.

**15. RISK OF LOSS.** The Client shall be responsible for protection of all work, equipment, materials, computer programs, supplies, and the like, including data, after delivery to the Client. The Client shall indemnify, defend and hold SCT harmless from any and all suits, claims, liabilities, damages, judgments, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with the Client's responsibility to protect the above.

**16. LIABILITY AND LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES.**

(a) The Client shall maintain adequate supporting material to enable SCT to update or regenerate, as necessary, data files, printer outputs and other data. In the event of loss, damage, destruction, or inoperation of any data, service, system or program due to the sole negligence of SCT, SCT's sole liability therefor shall be

limited to either the replacement, repair, reconstruction, redevelopment, or regeneration, at SCT's option, of the lost, damaged, destroyed or inoperable data, service, system or program from the Client's supporting material in the method deemed most suitable by SCT for such action. In the event the Client has failed to maintain adequate supporting material, SCT's liability shall be strictly limited to the same cost of replacement, at SCT's then current rates, as if the Client had so maintained adequate supporting material. Adequate supporting material is defined for this purpose as the original source material or data input documents initially provided to SCT. SCT shall not be liable for any damages resulting or arising from Client's failure to perform its obligations hereunder.

(b) SCT NEITHER MAKES NOR ASSUMES NOR AUTHORIZES ANY PERSON TO MAKE OR ASSUME FOR IT, AND HEREBY SPECIFICALLY DISCLAIMS, ANY AND ALL WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THE SALE, LICENSE, OR USE OF ANY SERVICE, SYSTEM, PROGRAM OR EQUIPMENT UNDER THIS AGREEMENT.

(c) SCT's aggregate liability to Client and/or any third party(ies) (except for such liability arising in connection with any claims, demands and/or causes of action for which SCT maintains the insurance coverage set forth in Section 16 (d) below) for any and all claims, demands and/or causes of action arising under any legal theory, including without limitation breach of contract, breach of warranty, negligence, strict liability, and misrepresentation and similar legal theories (collectively "CLAIMS"), shall be strictly limited to the amount of the direct damages sustained by Client and/or such third party(ies), but in no event will SCT's liability for such CLAIMS exceed the largest amount paid by Client under Exhibit B for any one year. IN ANY EVENT, SCT WILL NOT BE LIABLE FOR ANY OTHER DAMAGES, WHETHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL, INCURRED BY CLIENT AND/OR ANY THIRD PARTY, EVEN IF INFORMED OF THE POSSIBILITY THEREOF IN ADVANCE.

(d) SCT agrees to maintain comprehensive general liability insurance in the following minimum amounts: Property Damage - \$100,000 per occurrence and \$2,000,000 aggregate; Bodily Injury and Loss of Life - \$500,000 per occurrence and \$2,000,000 aggregate. SCT agrees that the provisions of this Section

16(d) do not relieve it of whatever liability may exist in connection with bodily injury, death or property damage arising from the negligence of SCT, but Client agrees that any such liability of SCT to Client is hereby expressly LIMITED TO THE AMOUNTS OF INSURANCE SET FORTH IN THIS SECTION 16(d).

17. COST OF LIVING ADJUSTMENT. If at the end of the first year of performance under this Agreement and each year thereafter, the Consumer Price Index for Urban Wage Earners and Clerical Workers of the Metropolitan area in which Client is located presently published by the Bureau of Labor Statistics of the Department of Labor, is higher than the Consumer Price Index on the first day of the month in which this Agreement becomes effective (the "Base Index"), then at the end of the first year and at the end of each of the remaining years of this Agreement, the price to be paid by Client to SCT hereunder for the next ensuing year shall be adjusted accordingly to reflect the percentage increase of the then current Consumer Price Index over the Base Index.

18. CLIENT'S CONTRACT ADMINISTRATOR. The Client shall appoint a Contract Administrator who will be delegated the duty and responsibility of maintaining liaison with SCT and to oversee a successful and harmonious performance of this Agreement.

19. NOTICES. Any notice provided for herein shall be given in writing and transmitted by personal delivery, facsimile transmission, courier or prepaid first class registered or certified mail addressed as follows:

Client      City of Fort Wayne, Indiana  
                Controllers Office  
                9th Floor, City/County Building  
                One Main Street  
                Fort Wayne, Indiana 46802  
                ATTENTION:      C. David Silletto

SCT:      Systems & Computer Technology Corporation  
                Great Valley Corporate Center  
                Four Country View Road  
                Malvern, Pennsylvania 19355  
                ATTENTION:      Vice President, Information Resource  
                               Management

With a copy to:      Systems & Computer Technology Corporation  
                           Great Valley Corporate Center  
                           Four Country View Road  
                           Malvern, Pennsylvania 19355

ATTENTION: General Counsel

or to such other persons or addresses which the Client or SCT may from time to time designate in writing.

20. **NON-SOLICITATION.** Neither Client nor SCT shall solicit or recruit or assist another party in soliciting or recruiting any employees of the other for a period beginning with the Effective Date and extending for six (6) months after the expiration or earlier termination of this Agreement, without the prior express written permission of the other party.

21. **MISCELLANEOUS.**

(a) Each paragraph, clause and provision of this Agreement is severable from the others and if one provision or part hereof is declared invalid, the remaining provisions shall nevertheless remain in full force and effect.

(b) This Agreement, together with the Exhibits hereto, constitutes the entire Agreement of the parties on the subject-matter hereof, and no other agreement or understanding, verbal or otherwise, on the subject-matter hereof exists between the parties at the time of execution hereof. This Agreement shall not be changed, modified, or discharged except by written instrument executed by both parties.

(c) All terms and words used in this Agreement regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any paragraph or clause herein may require, the same as if such words have been fully and properly written in the number and gender.

(d) The headings of sections and paragraphs, if any, to the extent used herein are for convenience and reference only, in no way define, limit or describe the scope or intent of any provision hereof, and therefore shall not be used in construing or interpreting the provisions hereof.

(e) This Agreement does not constitute SCT as the agent or representative of the Client for any purpose other than that which may be expressly set forth herein.

(f) This Agreement shall be construed in accordance with the laws of the State of Indiana.

(g) This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused their names to be affixed hereto as of the date first above written.

SYSTEMS & COMPUTER  
TECHNOLOGY CORPORATION

THE CITY OF  
FORT WAYNE, INDIANA

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## **EXHIBIT A**

### **SCOPE OF SERVICES**

SCT shall provide the following General Scope of Services described below during the term of this Agreement.

1. SCT will provide a computing management team to manage Client's Data Processing Services. SCT will assume responsibility for day-to-day management of Client's Data Processing Center, transitioning certain current City data processing staff to SCT employment.
2. SCT will develop, within approximately six (6) months of the Effective Date, a Long Range Computer Services "Master Plan" for driving computing decisions over a multi-year period.
3. SCT will develop and implement, within approximately sixty (60) days of the Effective Date, a "Short Term Improvement Plan" focused on priority issues requiring immediate attention, including such matters as completion and implementation of the Payroll System and stabilization of Client's services of existing computing environment.
4. SCT will introduce and implement the user liaisons, who will serve as the communications bridge between the user departments and computer center personnel and provide training for the user staff.
5. SCT will from time to time provide the services of technical specialists to deliver services outlined herein. Such technical specialists will have specific subject-matter knowledge in such areas as public safety, finance, community development, economic development, systems development, computing services, and operations management.
6. SCT will assist the Department of Public Safety to implement its Information System.
7. SCT will introduce and put in place certain methodologies from its Strategic Tactical Excellence Program (STEPs) including security; quality assurance; documentation; and project management and control.
8. SCT will provide formalized status reporting to the Data Processing Steering Committee and City management on a periodic basis.
9. SCT will provide computer literacy training programs for Client's key personnel, department heads and users.
10. SCT will provide training for and update the capabilities of Client's data processing technical support staff.
11. SCT will provide micro-support to assist Community Development and Economic Development.

12. SCT, through its management of Client's data processing operations, shall use its best efforts to maintain existing arrangements for the delivery of work to and from the Client's data processing facilities in effect as of the Effective Date.
13. SCT shall manage the processing of Client's systems applications under this Agreement following the Client's specified run instructions currently in use or as improved and manage the production of the system output formats required by the current systems application design.
14. During normal and emergency operations, the Client and SCT shall agree on delivery schedules and priorities for all system output formats and work to be furnished and all data to be submitted by SCT.
15. SCT shall manage the distribution of output material and formats to the appropriate destinations as required by the current systems applications design.
16. SCT shall manage the distribution of such systems application output formats as may be required in the conduct of the data processing functions as described herein.
17. With prior written approval of the Client, SCT shall coordinate the acquisition, substitution or modification of all data processing equipment, systems, supplies, maintenance and the like.

In addition, SCT will provide, among other projects to be agreed upon by SCT and Client, the following Services during the term of this Agreement.

1. Modify TRES to handle an expected Sewer rate change.
2. Develop and implement enhancements to TRES to add Credit History and Deposit reporting.
3. Investigate the feasibility of using hand held automated meter readers.
4. Investigate replacement for TRES.
5. Installation of Release 6.0 of CYBORG when it becomes generally available.
6. Implement the Human Resources function which has been partially installed and tested but has no implementation or training schedule.
7. Reduce of the number of different pay runs throughout the City from 7 to 2.
8. Add vacation, sick, and compensatory time to the current payroll check stubs.
9. Develop new reports for Vacation Costing Analysis and Vacation Scheduling.
10. Enhance the CYBORG/LGFS interface to allow for the passing of additional information such as PERF.
11. Install Release 10.0 of LGFS when it becomes generally available.

12. Investigate the possibility of acquiring the Inventory module.
13. Modify the CICS Command Level transactions from conversational to pseudo-conversational in the Care System.
14. Investigate the possibility of acquiring a City/County comprehensive law enforcement system.
15. Implement a Water Subsystem currently under development by outside contractors, from IMS.
16. Investigate the possibility of developing maps for the City agencies using AUTOCAD Mapping.
17. Install the new release of CEO when it becomes generally available.
18. Investigate the possibility of merging CEO facilities for the City and the County.
19. Review the requirements and propose a viable solution for this department's pursuit in acquisition of Data General software and hardware through a Federal Grant.
20. Production implementation of the Barrett Bonds application developed in-house.
21. Move the optical fiber connected IBM printer to the County computer room.
22. Move the consoles connected to the Client systems to the County computer room.
23. Move the Operations staff not required to run the Data General mainframe to the County computer room.
24. Cross-train the Operations staff to be able to run both City and County production jobs.
25. Move the Data General mainframe and its associated peripherals to the County computer room.
26. Move the remaining Operations staff to the County computer room.
27. Cross-train the Operations staff to be able to run IBM, Data General, and UNISYS hardware.
28. Begin providing telecommunications support to the Client departments.
29. Connect the City and County ROLM systems.
30. Investigate cost savings resulting from the combining of telephone and computer network facilities.
31. Augment the Technical Services group by one position and concentrate all technical services functions in this group.

32. Review the different software contracts for packages and tools to allow the City and County departments to share those products.
33. Migrate from OWL to ICCF and rewrite the OWL PROCS in ICCF.
34. Combine the City and County production and batch systems.

## EXHIBIT B

	<u>1988</u>	<u>1989(1)</u>	<u>1990(1)</u>	<u>1991(1)</u>	<u>1992(1)</u>	<u>1993(1)</u>	<u>1994(1)</u>
JAN	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
FEB	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
MAR	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
APR	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
MAY	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
JUN	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
JULY	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
AUG	\$ 54,512	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
SEP	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
OCT	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
NOV	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
DEC	\$ 54,416	\$ 39,887	\$ 39,887	\$ 39,887	\$ 39,887	\$ 39,987	\$ 25,499
TOTAL	\$ 435,300	\$ 478,523	\$ 478,523	\$ 478,523	\$ 478,523	\$478,523	\$305,185

(1) The amounts included in the above table for these years do not include any cost of living adjustments. These amounts shall be increased for such cost of living adjustments for each year in accordance with the provisions of Section 17 of this Agreement.

Read the first time in full and on motion by Redd,  
seconded by Stier, and duly adopted, read the second time by  
title and referred to the Committee on Finance (and the  
City Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Conference Room 128, City-County Building,  
Fort Wayne, Indiana, on 19, the 19 day  
of May, 1988, at 10:00 o'clock M.E.S.T.

DATED: 5-24-88

Sandra E. Kennedy  
SANDRA E. KENNEDY CITY CLERK

Read the third time in full and on motion by Schmidt,  
seconded by Stier, and duly adopted, placed on its  
passage. PASSED LOST by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			<u>2</u>
BRADBURY				<u>A</u>
BURNS	<u>✓</u>			
GiaQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
STIER				<u>A</u>
TALARICO	<u>✓</u>			

DATED: 6-14-88

Sandra E. Kennedy, CITY CLERK  
*Deputy*

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)  
(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. S-85-88  
on the 14th day of June, 1988,

Sandra E. Kennedy, CITY CLERK  
*Deputy*

SEAL

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the 15th day of June, 1988,  
at the hour of 11:30 o'clock A M., E.S.T.

Sandra E. Kennedy, CITY CLERK  
*Deputy*

Approved and signed by me this 16th day of June,  
1988, at the hour of 8:45 o'clock P M., E.S.T.

P. Helmke  
PAUL HELMKE, MAYOR

Admn. Appr. \_\_\_\_\_

DIGEST SHEET

1-88-05-18

TITLE OF ORDINANCE SPECIAL ORDINANCE

DEPARTMENT REQUESTING ORDINANCE CONTROLLER'S OFFICE

SYNOPSIS OF ORDINANCE RATIFIES AND APPROVES INFORMATION RESOURCES CONTRACT

BETWEEN CITY OF FORT WAYNE AND SCT.

EFFECT OF PASSAGE SCT WILL OPERATE AND MANAGE CITY'S DATA PROCESSING

DEPARTMENT

EFFECT OF NON-PASSAGE INFORMATION RESOURCES MANAGEMENT SERVICES WILL BE

DONE IN-HOUSE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) 1988- \$435,300;

1989-\$478,523; 1990-\$478,523; 1991-\$478,523; 1992-\$478,523;

1993-\$478,523; 1994-\$305,185. (cost of living provision may increase late payments.)

ASSIGNED TO COMMITTEE (PRESIDENT) \_\_\_\_\_

BILL NO. S-88-05-18

REPORT OF THE COMMITTEE ON PUBLIC RELATIONS

WE, YOUR COMMITTEE ON PUBLIC RELATIONS TO WHOM WAS  
REFERRED AN (ORDINANCE) (RESOLUTION) approving and  
authorizing an Information Resources Management Agreement between  
the City of Fort Wayne and Systems and Computer Technology  
Corporation ("SCT")

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (RESOLUTION)

YES

NO

JAMES S. STIER  
CHAIRMAN  
DONALD J. SCHMIDT  
VICE CHAIRMAN  
CHARLES B. REDD

DAVID C. LONG

MARK E. GIAQUINTA

PAUL M. BURNS

SAMUEL J. TALARICO

THOMAS C. HENRY

JANET G. BRADBURY

CONCURRED IN 6-14-88

SANDRA E. KENNEDY  
CITY CLERK

# **THE CITY OF FORT WAYNE**



**SCT CONTRACTUAL MATERIALS  
MAY 23, 1988**

# **THE CITY OF FORT WAYNE**



**SCT CONTRACTUAL MATERIALS  
MAY 23, 1988**

## SCT PROPOSAL

	<u>BUDGET 1988</u>	<u>PROPOSED 1989-1993 *</u>	<u>ANNUAL SAVINGS</u>
<b>DATA PROCESSING</b>			
4100	\$ 562.6	-0-	
4200	57.5		
4300	594.6	\$ 601.3	
<b>TELECOMMUNICATIONS</b>			
4100	-0-	-0-	
4200	8.4	-0-	
4300	20.2	-0-	
<b>CONTROLLER</b>			
4100	33.5	-0-	
4200	-0-	-0-	
4300	-0-	478.5	
<b>TOTALS:</b>			
Labor	\$ 596.1	\$ 478.5	\$ 117.6
Expenses	680.7	647.0 **	33.7
	<hr/>	<hr/>	<hr/>
	\$1276.8	\$1125.5	\$ 151.3

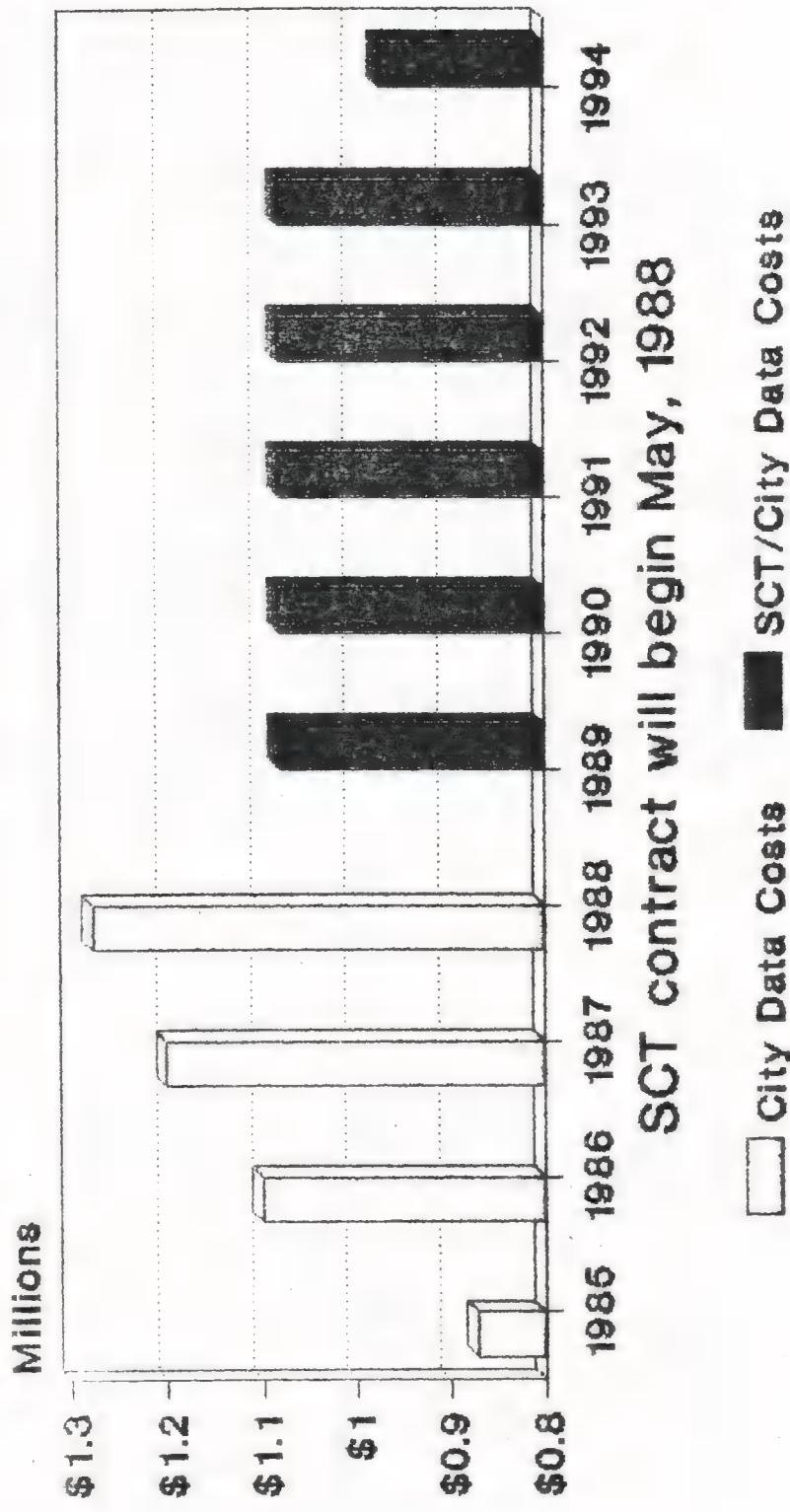
\* EXPRESSED IN 1988 DOLLARS - SUBJECT TO ANNUAL INCREASED BASED ON INCREASE OF FORT WAYNE CPI

\*\* GUARANTEED BY SCT. SCT AND CITY WILL SHARE EQUALLY IN ANY SAVINGS BELOW THIS AMOUNT

Expanded services included in above costs:

1. Development of a long range Computer Services Master Plan.
2. Resources to assist the Department of Public Safety to successfully finalize their information system.
3. A micro-specialist to assist departments that have micro application needs.
4. A man-month/per year of Corporate support, i.e. consultants to work on special projects.

# CITY OF FORT WAYNE DATA PROCESSING BUDGET PAST, CURRENT, & PROPOSED



• Projected years begin in 1988

## SCT CONTRACT ANALYSIS

**City of Fort Wayne 1988 Data Processing Appropriation .....\$1.28M per year**

If City expands the current Scope of Services to include:

1. Development of a Long Range Computer Services Master Plan.
2. Resources to assist the Department of Public Safety to successfully finalize their Information System.
3. A micro-specialist to assist departments that have micro application needs
4. A man-month/per year of consulting support, i.e. consultants to work on special projects.

**This would add @ \$100,000 per year to data processing budget or.....\$1.38M per year**

**\* SCT Contractual Umbrella over multi-year period averages.....\$1.1M per year**

**SAVINGS - \$270K PER YEAR OR \$1.990M OVER 7 YEARS**

### Benefits:

- A single point of accountability which affords greater control and measurability
- A guaranteed level of service
- Predictable costs over a multi-year period
- Proven structured operations and development methodologies which enhance productivity
- Access to subject-matter specialists to assist on an "as needed" basis
- Substantial savings through the economies of scale created by merging the County/City centers
- Elimination of redundant processes, and
- Long range development and implementation of a Computer Services Master Plan to chart the direction and utilization of the City information resources

\* includes SCT 11-Point Program

## SCT IRM CONTRACTUAL UMBRELLA

1. SCT, under a contractual umbrella, will provide an experienced computing management team capable of directing the City of Fort Wayne's Data Processing Services and serving all City users.
2. SCT will develop within six (6) months and maintain a Long Range Computer Services "Master Plan" that provides a detailed "blueprint" for driving computing decisions over a multi-year period.
3. SCT will develop and implement in sixty (60) days a "Short Term Improvement Plan" focused on priority issues requiring immediate attention, e.g. (1) completion and implementation of the Payroll System; (2) stabilization of the existing computing environment, etc.
4. SCT will introduce and implement the "user liaison" concept. It is extremely important to have these functional specialists. They serve as the communications bridge between the user departments and computer center personnel and provide training for the user staff.
5. SCT will provide access to a cadre of technical specialists as needed to deliver services contained herein. These are individuals who have specific subject-matter knowledge, i.e. public safety, finance, community development, economic development, systems development, computing services, and operations management. This on-call availability of temporary resources helps SCT achieve the most cost-effective utilization of key technical specialists, thereby keeping City costs to a minimum.
6. The SCT proposal includes the provision of assistance to the Department of Public Safety to implement its Information System.
7. SCT will introduce and put in place proven methodologies including: (1) security; (2) quality assurance; (3) documentation; and (4) project management and control.
8. The SCT Management Team will provide formalized status reporting to the Data Processing Steering Committee and City management.
9. SCT will provide computer literacy training programs for all key executives, department heads and users.
10. SCT will provide training and update the capabilities of the current DP technical support staff. This should be a continuing program that involves the growth of current personnel to state-of-the-art techniques and methodology.
11. SCT will provide micro-support to assist Community Development and Economic Development in their computing initiatives.

**CITY OF FORT WAYNE**

**COMPUTING AND TECHNICAL ASSESSMENT**

**Prepared By:**

**Systems & Computer Technology Corporation**

**March 22, 1988**



## SECTION 1.0

### EXECUTIVE SUMMARY

1.1

#### INTRODUCTION

In the interest of City/County cooperation, where appropriate the City of Fort Wayne has for the past several years purchased certain computing services from Allen County. Additionally, the City has managed and maintained its own data processing operation which includes a Data General minicomputer and a staff of approximately twenty people. Newly elected City Administration desired to explore the feasibility of further reducing cost and improving services through a further merger of resources with the County.

Systems & Computer Technology (SCT) Corporation was commissioned by the City of Fort Wayne to perform a computing and technology assessment. SCT has performed similar computing and technology assessments for over 300 local government clients nationwide. The purpose of the assessment program was to evaluate current computing services to users; analyze needs and requirements; and recommend a strategic direction to enable the City to more effectively utilize its information resources. The computing and technology assessment was conducted the week of February 8, 1988.

SCT began the assessment by selecting a team from our over 800 professional employees. Team members were selected based on their experience with the technical and functional data processing and related activities performed by the City department staff they were interviewing. Information was gathered through structured user interviews and then reviewed and analyzed by team members. A final assessment report was then developed. Exhibit 1-1 on the following page depicts the steps SCT utilized to perform the assessment.

Each step in the computing and technology assessment process is integral to the delivery of a report that accurately reflects the needs of the City of Fort Wayne's computing environment and future direction.

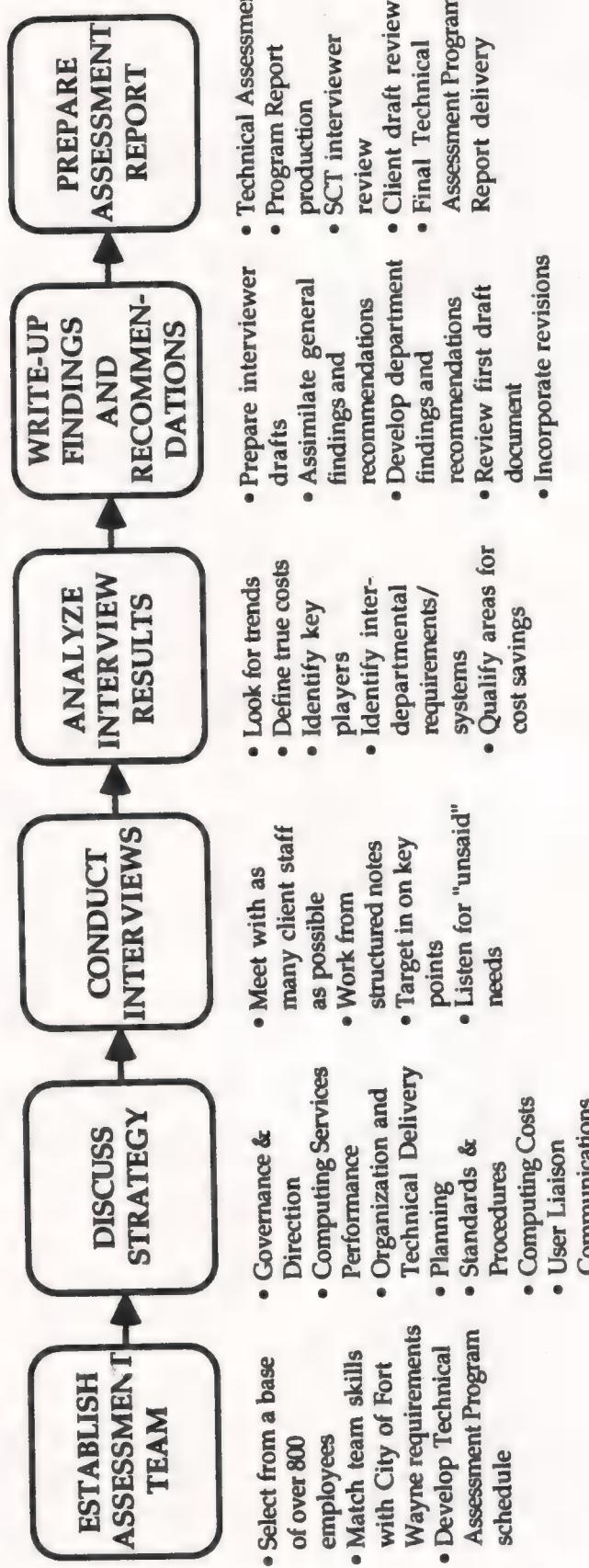
The SCT assessment team's prime directive was to gain an in-depth understanding of the City's computing environment from both an organizational and operational perspective. In order to accomplish this and also to be able to prepare a report with consistent topical themes, each team member was encouraged to use the following template when conducting interviews:

- Governance and Direction - A review of the governing body's control and allocation of the computing resources, i.e., personnel, hardware and software.
- Computing Services Performance - A review of the Computer Center's performance with regard to the level of satisfaction by the user community and the distribution of access to centralized information systems data.

Exhibit 1-1

CITY OF FORT WAYNE

*SCT Computing and Technology Assessment Program*



- Organization and Technical Delivery - A review of the Computer Center organization, levels of responsibility, existence of standards and procedures, and the effectiveness of timely delivery.
- Short-Term and Long-Range Planning - A review of the current planning process, if any, value, and participation of the governing body.
- User Liaison, Communication, Perception and Satisfaction - A review of the level of user satisfaction with current systems and planned future computing requirements, and the effectiveness of the interface between Data Processing personnel and the user community.
- Systems Development Process - A review of the Computer Center's development and maintenance methodology, development tools, standards and procedures, and project management.
- Hardware, Computer Operations Environment and Utilization - Review of the physical aspects of the computing environment, e.g., I/O control, security, and scheduling.
- Computing Costs - A review of current computing costs, including the Computer Center's budget and other costs not identified as computing, but used for that specific purpose.
- Microcomputing and Office Automation - A review of microcomputers including networking, availability of office automation processing, electronic mail and decision support tools.
- Telecommunication - A review of the extent of capitalizing on technological opportunities to reduce costs by improving efficiency of resource use.

SCT's assessment team was able to interview many of the City's key employees. As a result, SCT feels that the findings and recommendations presented herein accurately reflect the status of computing within the City of Fort Wayne.

Identification of a specific finding within a department with no apparent link to other departments or effect on the operation of the City is classified as a department-specific finding. Department-specific findings generally require prioritization and resolution by the affected department. These findings are discussed in Section 2.0 of this document. Identification of a specific finding with a repeated or far-reaching impact on the City or on the various departments is classified as a general finding. SCT presents general findings and recommendations to resolve identified deficiencies, in this section of the assessment document.

GENERAL FINDINGS AND RECOMMENDATIONSADMINISTRATIVEThe City does not have in place an active Computing Policy Governance Body.

An MIS Committee is in place to plan the overall computing services direction for the City of Fort Wayne but has not been active. The City should implement a policy committee and an advisory committee. The policy committee would set goals and objectives for City computing and should be comprised of key City officials and Council members ex-officio. The advisory committee would be responsible for setting project priorities, recommending budgets, and overseeing the day-to-day delivery of information computing services. It would consist of key users and data processing managers.

City Data Processing is functioning in a reactive mode.

Some user dissatisfaction continues to manifest itself in regard to this reactive mode. The City must begin an aggressive program to develop and implement a long-term computing management plan that addresses integration of information resources into the key service delivery functions of the City.

Departmental users are making unilateral computing decisions due to the lack of support by the Data Processing Department.

Public Safety has not yet been successful in an attempt to implement a Honeywell/Tetratech solution to meet its information needs without City Data Processing support. The City requires a comprehensive integrated strategic plan that addresses the information requirements for all City Departments.

City Departments and their staff require ongoing support and education.

Staff morale is directly influenced by the level of training provided to new employees and the extent of refresher type support available. The real costs of City operations must take into account the skill level of City employees to use computer systems. Thus, the City should implement ongoing training programs to ensure that systems are used to their fullest.

The City is not receiving equitable value for its investment in computing.

Several computer applications are experiencing ongoing problems. Duplicate processes are used because systems are not completely reliable, understood, easily operated, or maintained. The City must perform a detailed computing analysis to identify areas for consolidation and improvement.

#### PLANNING

City Data Processing has not planned for the growth and implementation of new technologies.

Pre-occupied with "reactive-mode" operations, the Data Processing Department has been unable to plan and execute short- or long-term projects. This has resulted in the uncontrolled proliferation of computer hardware and software. The City should exercise greater control over all data processing and related plans and procurements.

The City has assumed a passive role in management of City-wide data processing resources.

As a result the City Data Processing Department functions in a maintenance mode instead of taking a leadership position. The City must plan its computing future beginning with the formulation of a long-range computer services master plan.

#### LIAISON WITH CITY USERS

Communication between data processing and user departments are ineffective at a functional level.

City Data Processing has functioned as an implementor of isolated departmental requirements rather than as a partner in the development of comprehensive programs that benefit all departments. The City requires subject matter experts (user liaisons) to work with users to improve communications, develop structured solutions, and enhance productivity.

#### RESOURCE UTILIZATION

There is no "connectivity" of resources.  
The City is not effectively networking information systems and user knowledge. The City must involve key users when formulating the strategic direction of its information resources.

## APPLICATION SYSTEMS

The City has application projects in various phases of completion.

The City must bring certain projects to completion, e.g., Public Safety Information Systems. Protracted implementation cycles result in productivity loss, increased costs, and possible legal ramifications. The City through its Data Processing Department must take a proactive position to bring about the successful completion of unfinished applications implementations. For example:

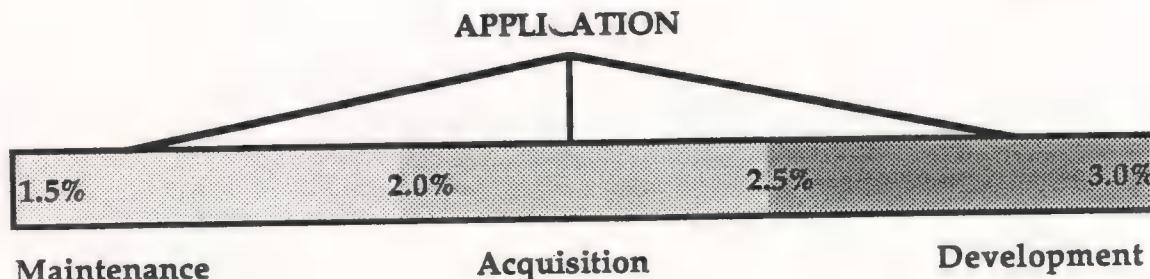
- **LGFS** - While the AMS system is implemented within the Finance and Administration Division, there are many reports and other forms of management information currently not available to the Division.
- **CYBORG** - The CYBORG payroll system, which took over two years to implement, still does not include the personnel module.
- **TRES** - The TRES billing system, which generates \$18 to \$20 million in revenue, is antiquated and poses potential problems for the City.

### 1.3 CONCLUSION

Local government jurisdictions across the nation generally spend between 1.5-3% of their total operating budgets on data processing. The percentage variance depends on whether the jurisdiction is in a maintenance or development mode (see Figure 1-1 below).

The City of Fort Wayne has implemented many applications over the years, e.g., LGFS, CYBORG and TRES. As a result, almost all resources within the data processing center are currently dedicated to the maintenance of those systems. Therefore, the City would fall at the bottom of the range in terms of budget spent on DP. However, with the proper management, a substantial larger part of the budget can be applied to new development while lowering the total amount spent for Data Processing.

**FIGURE 1-1**  
**Data Processing Activity Linked To % of Budget Expenditures**

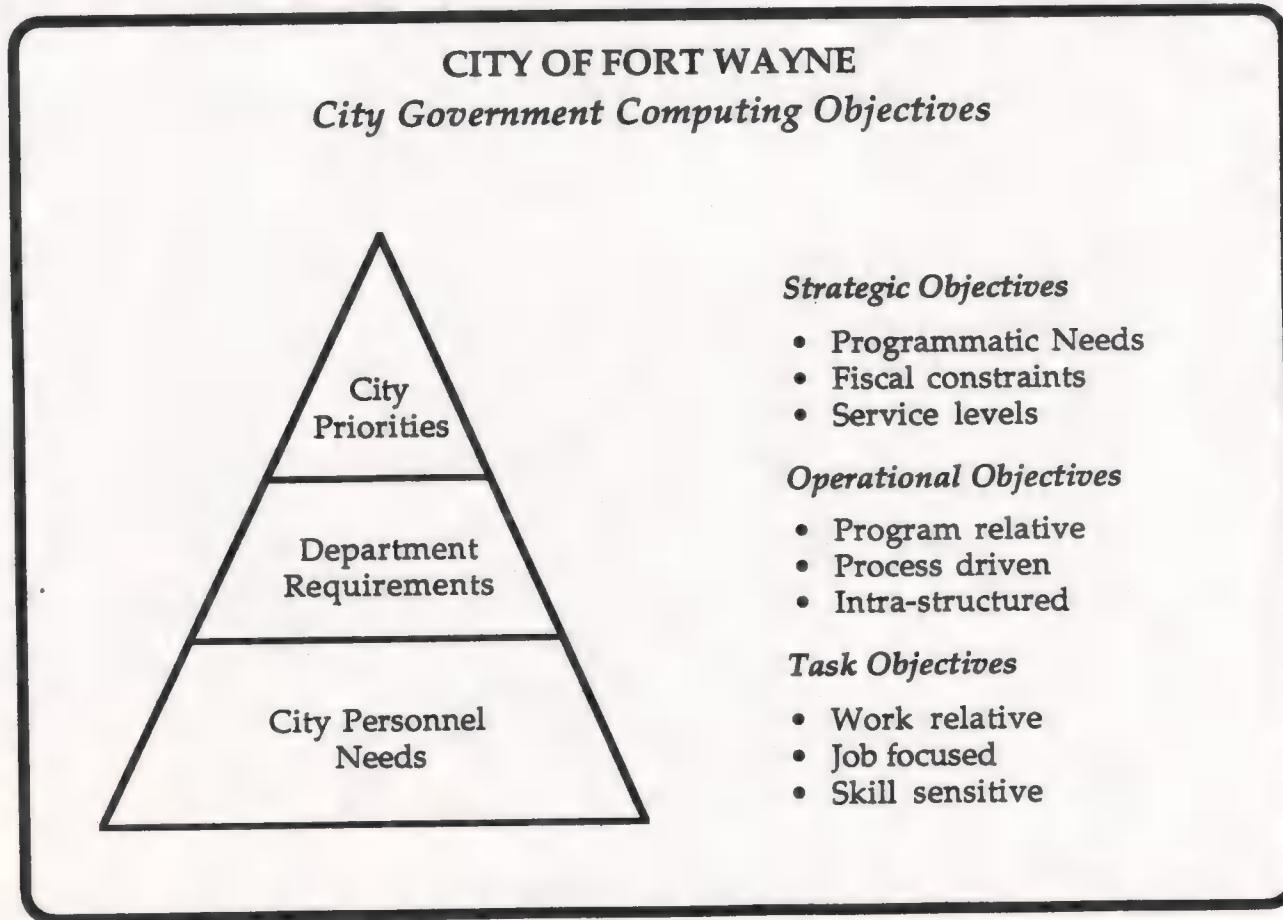


Since this year's City fiscal operating budget is slightly above \$57 million (using the national average), City expenditures for data processing should approximate \$1.1 million or be in the bottom third of the range. The City of Fort Wayne's current DP budget of approximately \$1.26 million places it in the middle third of the range or in the application acquisition range. Application development (historically a high-cost activity) encompasses the top third of the DP budget expenditure range.

City Government computing is multi-dimensional and dynamic, as depicted below. From the viewpoint of the Mayor and City Council strategic issues are centered around the interests and needs of the community and voters. Data Processing is viewed as an internal service organization, with the single purpose to provide City Departments with automated processes to assist in meeting City programmatic priorities -- whether these are in the areas of Public Safety, Finance and Administration, Public Works, Economic Development, or Community Development.

From the viewpoint of the City Departments, the issues are primarily focused on better performing their functions within usually tight budgetary constraints. Data Processing is viewed as contributing to the ability of each City department to meet its goals and objectives. When the DP organization is effective, these departments gain productivity which allows them to deliver improved cost effective service.

FIGURE 1-2



From the viewpoint of City staff, computer systems are viewed as either a tool or a handicap to performing their jobs. Attention must be focused by Data Processing on the requirements to implement new systems so that City employees are trained in the use of, and then supported by, the developed systems.

The City of Fort Wayne, Indiana, is at a critical juncture in the evolution of the management of its information resources. The City should place itself in a leadership position in providing computer services and resources to its user community. This can be accomplished by:

- Formalizing a governance structure with a defined role
- Developing and executing a long-range computer services master plan
- Expanding the synergistic role with Allen County to provide an enhanced level of service while reducing costs
- Improving communications among City users i.e., implementing the user liaison concept
- Raising the level of user computer literacy through participation in plan development and formal training
- Utilizing specialized expertise to improve the delivery of systems and services
- Taking advantage of structured methodologies and procedures to improve productivity.

SCT believes the identification of findings and recommendations on both the general and departmental levels are the first step in the process of improving computing for the City of Fort Wayne.

# **CONTRACT**

## INFORMATION RESOURCES MANAGEMENT AGREEMENT

THIS AGREEMENT is entered into as of May 1, 1988, by and between Systems & Computer Technology Corporation ("SCT"), a Delaware corporation, with offices at Great Valley Corporate Center, 4 Country View Road, Malvern, Pennsylvania, 19355, and The City of Fort Wayne, Indiana ("Client"), with offices at City/County Building One, Main Street, Fort Wayne, Indiana 46802.

### BACKGROUND

The Client desires to retain SCT to provide certain data processing, systems development, and other services, which is in the business of supplying such services.

NOW THEREFORE, in consideration of the premises and covenants hereinafter contained, and intending to be legally bound hereby, SCT and Client agree as follows:

1. TERM. This Agreement shall be effective commencing May 1, 1988 (the "Effective Date"), and shall continue until May 1, 1994.

2. INFORMATION RESOURCES MANAGEMENT SERVICES AND SYSTEMS.

(a) On the Effective Date of this Agreement and thereafter as provided herein, SCT will provide to the Client the services described in Exhibit A, which is attached hereto and incorporated herein by this reference.

(b) In order to perform the services described in Exhibit A, SCT will staff and manage the operation of the Client's data processing equipment, software operating systems, and software applications systems (collectively the "Computer Systems") in use at the execution of this Agreement, or such other equivalent configurations which do not increase the level of resources, time, cost or effort required to perform the services described in Exhibit A.

(c) The Computer Systems shall be located within the facilities of the Client.

(d) The Client agrees to permit SCT's authorized personnel, and third parties as may be authorized by SCT, access to the Computer Systems at all times, for the purposes of managing the operation thereof, and for all other purposes reasonably necessary or appropriate to permit SCT to perform its obligations hereunder.

(e) The Client and SCT mutually agree not to remove or alter in any way markings or other forms signifying ownership of the Computer Systems.

(f) In order to permit SCT to perform its obligations hereunder, the Client personnel shall not operate the Computer Systems to be utilized by SCT hereunder except upon the prior written agreement of SCT, which agreement shall not unreasonably be withheld. SCT personnel shall comply with the rules of the Client with respect to access to the Client's offices and records.

(g) SCT shall implement the security and safety measures established by the Client relating to the Client's data processing facilities which, at a minimum, will conform with industry standards to prevent access to the Computer Systems by other than authorized personnel.

(h) The Client agrees to make its personnel available to SCT so that SCT may consult with such personnel in order to permit SCT to perform its obligations hereunder.

(i) SCT shall manage, with the advice and consent of Client, the Client's expenses (other than for personnel services) in connection with its computer center and the Computer Systems, including without limitation the purchase of supplies, software, hardware and maintenance ("SUPPLIES"). SCT shall submit to Client a budget for SUPPLIES for each calendar year during the term of this Agreement; provided that the budget for SUPPLIES for calendar year 1989 shall not exceed \$647,000 ("COST"). For 1989, SCT shall be solely liable for payment of the first \$30,000 of expenditures for SUPPLIES in excess of the COST. Client shall be solely liable for expenditures for SUPPLIES to the extent that such expenditures exceed \$677,000. In the event that expenditures for SUPPLIES for calendar year

1989 are below COST, Client shall pay SCT, on or before January 31, 1990, one-half (1/2) of the amount by which expenditures for SUPPLIES are below COST. In order to maintain its tax-exempt status, Client shall pay all SUPPLIES expenses, and no such SUPPLIES expenses are included in the amounts to be paid to SCT by Client under Exhibit B of this Agreement.

(j) During the term of this Agreement, the Client shall provide to SCT the following in order to permit SCT to perform its obligations hereunder:

(i) All consumable and reusable computer operating supplies existing on the Effective Date such as computer printer paper, special forms, ribbons, microfilm, magnetic tapes, disk packs and such other computer related supplies as are required to provide the services described in Exhibit A.

(ii) The necessary and appropriate floor and office space and modifications to space and facilities for both the Computer Systems and all personnel.

(iii) Any necessary leasehold improvement, such as electrical conduit, air conditioning and power which may be required in order to conform with the manufacturer's specifications for any Computer Systems utilized by SCT under this Agreement.

(iv) All utilities, including special power and air conditioning for the Computer Systems utilized by SCT hereunder. This includes electrical power and environmental conditioning capacity to meet vendor specifications for operation of computing equipment and storage of computer supplies, and adequate equipment to provide the electrical power continuity required to meet the Client's need for on-line computing continuity and responsiveness on a twenty-four hour a day, seven day a week operation basis.

(v) Necessary general office equipment such as desks, chairs, typewriters, files, supplies, and telephone service, including data communications equipment and service, plus any additional equipment or service reasonably required to accommodate SCT personnel.

(vi) Security and janitorial support for the Client's data processing facilities.

(vii) Reproduction capability for all reports and documentation due to the Client under this Agreement.

(viii) Fire protection equipment to protect against the destruction of the Computer Systems and computer data stored on-site.

(ix) Storage in a building not necessarily attached to the Client's data processing facilities for historical files and back up materials with which to rebuild data files in the event working files are destroyed because of natural disaster, fire, riots or other such causes. The Client shall make reasonable efforts to provide a vault area adequate to protect tapes, disks, and other working computer files from the hazards of theft, fire, hurricanes, and other natural disasters for up to five (5) hours, or other reasonable time period.

(x) On-site storage for expendable computer supplies (e.g., forms, paper, cards) to provide a working level of such supplies on hand at all times. On and off-site storage and delivery service to facilitate bulk purchasing, with immediate access to at least five (5) days of supply and two-three (2-3) day access to at least a thirty (30) day supply.

(xi) Parking spaces at the same cost and to the same extent parking is available to the Client's employees performing similar functions.

(k) Any changes in physical support provided by the Client (e.g., planned water or power outages and repair work) shall be promptly brought to SCT's attention to allow SCT to evaluate the impact on computer center operations and, where possible, to take action to minimize the effect on such operations.

(l) SCT shall not, without the prior written approval of the Client, sell or give to a third party machine time on any Computer Systems that it is authorized to manage and operate under this Agreement. SCT shall not use the Computer Systems for purposes other than its obligations under this Agreement unless, and to the extent, approved by the Client.

(m) SCT shall not charge any additional fees other than as provided herein for hiring or engaging services of experts or consultants to perform its duties provided for herein without the prior written approval of Client.

3. PERSONNEL EMPLOYMENT.

(a) Client shall make available to SCT all its current data processing personnel for employment by SCT. Except as specifically provided to the contrary herein, all employees of Client accepting employment with SCT shall be retained for ninety (90) days after the Effective Date (the "Transition Period").

(b) The level of compensation of Client employees accepting employment with SCT shall be at least equal to that paid by the Client as of the Effective Date.

(c) During the Transition Period, SCT shall review each such employee. SCT may in its discretion terminate any employee for any reason subsequent to the Transition Period. With regard to all former employees of Client who join SCT, Client shall, upon the resignation of any such former employee prior to the expiration of the Transition Period, pay to each such employee any amounts which Client would have paid to each such former employee if such former employee were then employed by Client, including without limitation severance, vacation, sick, and holiday pay. Client agrees to indemnify, defend and hold SCT harmless from any and all suits, claims, liabilities, judgments, damages, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with the resignation from SCT of any former Client employees prior to the expiration of the Transition Period. Except as otherwise provided above, SCT agrees to indemnify, defend and hold Client harmless from any and all suits, claims, liabilities, judgments, damages, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with the termination of employment with SCT of any former Client employees during, upon or after the expiration of the Transition Period.

(d) Client shall provide to SCT an accounting of sick leave and vacation accrued as of the Effective Date for all Client employees who are employed and retained by SCT for the period extending beyond the expiration of the Transition Period. In this connection, Client shall accept the liability for the use of any such accrued vacation days consistent with its usual and customary policy, and SCT shall

accept the liability for the use of any such accrued sick leave benefits (not to exceed 90 days) consistent with SCT's sick leave policy. SCT shall allow and permit the accrual of additional sick leave and vacation benefits consistent with its sick leave and vacation policy. Upon the termination of this Agreement or interim phase-over of personnel to Client, SCT will assume liability for the accrued balance of vacation, and Client will assume liability for the accrued balance of sick leave (not to exceed 90 days), consistent with its respective policies, for those individuals re-employed by the Client.

(e) Except as provided herein, SCT shall not offer employment to any Client personnel and Client shall not offer employment to any SCT personnel without written agreement from both parties for the period commencing on the Effective Date and extending until the expiration of six (6) months after the Termination Date.

#### **4. COST AND PAYMENT.**

(a) SCT will invoice the Client on the first business day of each month during the term of this Agreement for services during such month in an amount equal to the amount set forth in the schedule contained in Exhibit B, which is attached hereto and incorporated herein by this reference.

(b) All amounts due hereunder shall be paid by the Client to SCT within thirty (30) days after receipt of invoice. All amounts not paid when due hereunder shall bear interest at a rate of interest per annum equal to the prime rate plus three (3%) percent established from time-to-time by Hamilton Bank (N.A.); Lancaster, Pennsylvania, or at such lower rate equal to the maximum legal rate.

(c) Client shall be responsible for the payment of personal property taxes on any equipment or software, and shall be responsible for any sales, use or excise taxes levied or assessed on equipment, software and/or services furnished by SCT under this Agreement.

#### **5. MEETINGS AND REVIEWS.**

(a) The SCT Site Director shall be responsible for maintaining informal day-to-day contact with the Client's designated Contract Administrator (see Section 18 below).

(b) The SCT Site Director, together with a member of the management of SCT, as determined by SCT, shall meet annually (on such date as is mutually agreeable to the parties) with the Board or Committee responsible for data processing services and such other Client officials as such Board or Committee shall deem necessary and appropriate to make a presentation to review the progress of SCT's performance and operations during the past year and SCT's plans for the ensuing year.

6. REPORTS. During the term of this Agreement, SCT shall submit, on a monthly basis, status reports to the Client's designated Contract Administrator. The reports will include the progress of work being performed, the milestones attained, the problem areas encountered and corrective action taken or to be taken.

7. RIGHTS TO SYSTEMS APPLICATION SOFTWARE.

(a) The Client shall retain all right, title and interest in and to the Client's proprietary computer systems application software (collectively "programs") in operation at the Effective Date of this Agreement. SCT shall have no right, title or interest in or to such programs for any purpose, except the right to use, modify, enhance and operate such programs in order to perform services hereunder and as may be expressly set forth herein or in a separate written agreement executed between the parties. SCT shall retain all right, title and interest in and to its proprietary software, and the Client shall have no right, title or interest in or to such programs for any purpose. All right, title and interest to any programs owned by either SCT or the Client and all modifications and/or enhancements thereof made by SCT hereunder shall remain in the original owner of such programs.

(b) The Client shall own all right, title and interest to any new software programs and associated documentation developed under this Agreement where personnel provided by SCT hereunder perform only the actual program coding in connection with the new software programs from specifications provided to SCT by the Client. SCT shall own all right, title and interest to any new software programs and associated documentation developed under this Agreement if SCT performs other services in connection with the development of the new software programs in addition to performing the actual program coding in accordance with the specifications. In the latter case, where SCT is the owner of the new software program(s), SCT shall grant to the Client a perpetual, non-exclusive, non-transferable free license to use such new software program(s) for its in-house

computing needs pursuant to the terms and conditions of SCT's then current software license agreement. Each party agrees to execute such documents and other materials as may be reasonably requested by the party which owns the new software developed hereunder pursuant to the terms of this Section 7(b) to obtain protection for such new software and to perfect exclusive title thereto in the owner of such new software, at the sole cost of the owner.

(c) During the term of this Agreement, SCT shall have access to and use of all Client-owned programs and associated documentation, as well as all third party-owned proprietary software packages currently or hereafter used by Client, for use by SCT in processing data for the Client and performing other services to be provided by SCT hereunder, or for any other purpose authorized by the Client

(d) SCT, in the performance of its services hereunder, will not do anything which will result in a default by Client under any provisions of any data processing related contracts and leasing agreements between Client and a third party. SCT shall indemnify, defend and hold Client harmless from any and all suits, claims, liabilities, damages, judgments, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with a breach of SCT's responsibility set forth above.

#### 8. INSPECTION.

(a) SCT agrees to provide access to the Client records in its possession to the Client's internal auditors and to such other authorized parties as the Client may designate.

(b) All work performed under this Agreement shall be subject to inspection by the Client to the extent practicable during normal business hours and upon reasonable notice to SCT. All inspections by the Client shall be performed in such a manner as not to unduly delay the work being performed by SCT hereunder, and shall be at the sole cost of Client.

9. CONFIDENTIAL INFORMATION. Each party agrees (i) to treat the other's confidential information as proprietary to the other, (ii) that it will not knowingly disclose to any person or entity not a party to this Agreement except as ordered by a court of competent jurisdiction, or use for its own or any such person's or entity's benefit, any confidential information belonging to the other party to this

Agreement without that other party's prior written consent, and (iii) that it will use all reasonable effort to maintain the confidentiality of all confidential information of the other party to this Agreement and to prevent the unauthorized disclosure and dissemination of any of that confidential information to any such person or entity. In no event will any party hereto use less care to maintain the confidentiality of the other party's confidential information than it uses to maintain the confidentiality of its own information of equal importance. Information shall be deemed confidential for the purposes of this Agreement only (i) if disclosed in writing, it is clearly marked as confidential or (ii) if disclosed orally, it is clearly identified in writing as confidential within fifteen (15) days after its oral disclosure.

Confidential information does not include information that (i) is or becomes known to the public without fault or breach on the part of the party to this Agreement seeking to disclose it, (ii) the owning party regularly discloses to third parties without restriction on disclosure, (iii) the party to this Agreement seeking to disclose it receives from a party other than a party to this Agreement without restriction on disclosure and without breach of a nondisclosure obligation, (iv) is independently developed by the receiving party without the benefit of the disclosure, (v) is already known to the receiving party at the time of disclosure, or (vi) is required to be disclosed by operation of law.

Notwithstanding the termination of this Agreement, the nondisclosure and nonuse obligations set forth above will remain in full force with respect to each item of confidential information for a period of ten (10) years after the first receipt of that item by one party to the Agreement from the other.

10. COMPLIANCE WITH APPLICABLE LAWS. SCT agrees that performance of services under this Agreement will be subject to regulation and examination of all appropriate regulatory agencies of the Federal, State and Local Governments, to the same extent as if such services were being performed by the Client for itself on its own premises. This Agreement is expressly made subject to all such laws, ordinances, rules and regulations. In the event that compliance by SCT with future laws will involve the incurrence of additional costs or affect performance schedules, there shall be a price and/or performance schedule adjustment commensurate with additional costs or effect on performance schedules.

## **11. FORCE MAJEURE.**

(a) **SCT's Inability to Perform.** SCT shall not be liable for any failure to perform its obligations under the Agreement if prevented from doing so, in whole or in part, by a cause or causes beyond its control. Without limiting the generality of the foregoing, such causes include Acts of God, fires, floods, storms, earthquakes, other disasters, riots, strikes, lockouts, other labor disputes, wars or war operations, civil disturbance, restraints of government or any other cause or causes which could not with reasonable diligence be controlled or prevented by SCT.

(b) **Client's Insufficient Funding.** Client believes that sufficient funds can be obtained to pay all amounts due SCT throughout the term of this Agreement and hereby covenants and agrees that it will do all things lawfully within its power to obtain, maintain and properly request and pursue funds from which payments hereunder may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using its best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved. It is Client's intent to make all payments due hereunder for the entire term of this Agreement if funds are legally available therefor and in that regard Client represents and warrants to SCT that the services to be performed by SCT hereunder are important to its proper, efficient and economic operation. In the event insufficient funds are appropriated and budgeted or are otherwise legally available by any means whatsoever in any fiscal period for payments due under this Agreement, then Client will immediately notify SCT of such occurrence and SCT may either (a) reduce its staffing and level of services to the amount so budgeted or (b) notify Client that this Agreement will expire effective on the last day of the fiscal period for which appropriations were received. If no funds are appropriated or budgeted or otherwise legally available, then Client will immediately notify SCT of such occurrence, and this Agreement will be deemed expired effective on the last day of the fiscal period for which appropriations were received. Any such premature expiration effected pursuant to this Section 11(b) shall be subject to the provisions of Section 13(c). Notwithstanding the foregoing, Client agrees that the provisions of this Section 11(b) will not apply if any funds are appropriated to it, or by it, for the acquisition, retention or operation of data processing services or other services similar to which are being provided by SCT hereunder, and that it will not during the term of this Agreement give priority in the application of funds to any other similar services. Further, nothing in this Section

11(b) will be construed so as to permit Client to reduce the level of services to be provided by SCT hereunder, or effect a premature expiration of this Agreement, in order to acquire any other data processing or similar services or to allocate funds directly or indirectly to perform essentially the same application for which services are being provided, including the performance of the services by Client itself.

**12. PREVENTION OF PERFORMANCE BY COURT ORDER.** In the event a court of competent jurisdiction should render a final order or final judgment enjoining or restraining performance of this Agreement by either or both parties hereto, or in the event such a court should declare this Agreement void or illegal, then each party is relieved and dissolved of all obligations hereunder, subject, however, to the provisions of Section 14 and payment of all amounts to SCT for work performed and products licensed or provided, determined in accordance with Section 13(c) below.

Client agrees to defend and assert the legality of this Agreement in any litigation arising out of this Agreement brought by third parties in which the Client is named as a party defendant or respondent and to vigorously pursue such defense in any and all appropriate courts. Client further agrees to defend, indemnify and hold SCT harmless from any and all suits, claims, liabilities, judgments, damages, settlements, debts, costs, awards, and expenses, including attorneys' fees and expenses, in connection with the assertion of the illegality of this Agreement or the enjoining or restraining of SCT's performance of services hereunder.

**13. TERMINATION.**

(a) This Agreement may be terminated by either party hereto in the event the other party fails to substantially perform its obligations under this Agreement. Such termination must be in writing and shall be effective (the "Termination Date") either (i) ninety (90) days after receipt of such notice, unless the default is cured or remedial steps are taken to cure said default within ninety (90) days after receipt of such notice, or (ii) thirty (30) days after the Client's receipt of written notice from SCT for the Client's failure to make payments due hereunder within thirty (30) days after receipt of invoice. In the event the default complained of is cured or remedial steps are taken to cure said default within said ninety (90) day period, or if the default is for nonpayment, such payment is received by SCT within the aforementioned thirty (30) days, this Agreement shall continue as if such notice had not been given. In the event SCT files a voluntary petition in bankruptcy or

remains an involuntary petitioner in bankruptcy for a period exceeding ninety (90) days, Client shall have the right to offer employment to SCT employees then assigned to Client's site or previously assigned within the one hundred eighty (180) day period preceding, to perform the services necessary to maintain Client's site. Notwithstanding the foregoing, however, and without limitation thereon, Client can terminate this Agreement, at its sole and exclusive option, effective August 31, 1993 if SCT receives written notice from Client on or before July 1, 1993 that Client desires to so terminate this Agreement. In the event of such termination, Client shall have no liability to pay to SCT the payments set forth in Exhibit B (attached hereto and incorporated herein by reference) for calendar year 1994. However, notwithstanding the termination effective August 31, 1993, Client shall nevertheless make all payments to SCT for September through December, 1993 at the time such payments would have been due if the Agreement were terminated December 31, 1993.

(b) Termination pursuant to any provisions of this Section 13 shall be subject to the provisions of Section 14 below, except a termination for Client's failure to timely pay for services rendered by SCT hereunder.

(c) Within ninety (90) days after the expiration date or any earlier termination date, SCT shall submit an invoice to Client which shall include the following:

(i) An amount for all services and property (payment for which has not been made), performed or delivered prior to the expiration date or any earlier termination date.

(ii) All payments due pursuant to this Section shall be due and payable within thirty (30) days after receipt of invoice by the Client.

#### **14. PHASEOVER UPON TERMINATION.**

(a) Not less than sixty (60) days prior to the Termination Date, unless this Agreement is terminated by SCT by reason of Client's failure to timely pay for services rendered by SCT hereunder, SCT shall submit to the Client a written plan for turning responsibility for performance of the effort and services provided hereunder over to the Client. Implementation of such phaseover plan shall commence upon its approval by the Client and shall be completed on or before the

Termination Date. At such time, SCT shall make available to the Client such personnel as necessary for the provision and maintenance of data processing services and shall use its best efforts and cooperation to effect an orderly transition of personnel back to the Client.

(b) During the implementation of the phaseover plan, SCT shall train designated Client personnel in the operation and maintenance of the systems used and operated in providing services hereunder. At the option of the Client, SCT shall provide such additional training for a period not exceeding one hundred eighty (180) days after the Termination Date so long as this Agreement is not terminated by SCT by reason of Client's failure to timely pay.

(c) Performance by SCT personnel after the Termination Date of any training or system completion, implementation or other task shall be invoiced to the Client at SCT's then current standard time and material billing rates and shall be paid by Client within thirty (30) days after receipt of invoice.

(d) At least forty-five (45) days prior to the Termination Date, the Client shall provide written instructions for the return or disposition of all material and data of the Client at the Client's expense. If such timely instructions are not received, SCT shall leave such materials in the Client's data processing facilities, and shall not be responsible for any theft, loss or damage thereto, or for any expenses or damages incurred by the Client in connection therewith.

15. RISK OF LOSS. The Client shall be responsible for protection of all work, equipment, materials, computer programs, supplies, and the like, including data, after delivery to the Client. The Client shall indemnify, defend and hold SCT harmless from any and all suits, claims, liabilities, damages, judgments, settlements, debts, costs, awards and expenses, including attorneys' fees and expenses, in connection with the Client's responsibility to protect the above.

16. LIABILITY AND LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES.

(a) The Client shall maintain adequate supporting material to enable SCT to update or regenerate, as necessary, data files, printer outputs and other data. In the event of loss, damage, destruction, or inoperation of any data, service, system or program due to the sole negligence of SCT, SCT's sole liability therefor shall be

limited to either the replacement, repair, reconstruction, redevelopment, or regeneration, at SCT's option, of the lost, damaged, destroyed or inoperable data, service, system or program from the Client's supporting material in the method deemed most suitable by SCT for such action. In the event the Client has failed to maintain adequate supporting material, SCT's liability shall be strictly limited to the same cost of replacement, at SCT's then current rates, as if the Client had so maintained adequate supporting material. Adequate supporting material is defined for this purpose as the original source material or data input documents initially provided to SCT. SCT shall not be liable for any damages resulting or arising from Client's failure to perform its obligations hereunder.

(b) SCT NEITHER MAKES NOR ASSUMES NOR AUTHORIZES ANY PERSON TO MAKE OR ASSUME FOR IT, AND HEREBY SPECIFICALLY DISCLAIMS, ANY AND ALL WARRANTIES WHATSOEVER, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, IN CONNECTION WITH THE SALE, LICENSE, OR USE OF ANY SERVICE, SYSTEM, PROGRAM OR EQUIPMENT UNDER THIS AGREEMENT.

(c) SCT's aggregate liability to Client and/or any third party(ies) (except for such liability arising in connection with any claims, demands and/or causes of action for which SCT maintains the insurance coverage set forth in Section 16 (d) below) for any and all claims, demands and/or causes of action arising under any legal theory, including without limitation breach of contract, breach of warranty, negligence, strict liability, and misrepresentation and similar legal theories (collectively "CLAIMS"), shall be strictly limited to the amount of the direct damages sustained by Client and/or such third party(ies), but in no event will SCT's liability for such CLAIMS exceed the largest amount paid by Client under Exhibit B for any one year. IN ANY EVENT, SCT WILL NOT BE LIABLE FOR ANY OTHER DAMAGES, WHETHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL, INCURRED BY CLIENT AND/OR ANY THIRD PARTY, EVEN IF INFORMED OF THE POSSIBILITY THEREOF IN ADVANCE.

(d) SCT agrees to maintain comprehensive general liability insurance in the following minimum amounts: Property Damage - \$100,000 per occurrence and \$2,000,000 aggregate; Bodily Injury and Loss of Life - \$500,000 per occurrence and \$2,000,000 aggregate. SCT agrees that the provisions of this Section

16(d) do not relieve it of whatever liability may exist in connection with bodily injury, death or property damage arising from the negligence of SCT, but Client agrees that any such liability of SCT to Client is hereby expressly LIMITED TO THE AMOUNTS OF INSURANCE SET FORTH IN THIS SECTION 16(d).

17. COST OF LIVING ADJUSTMENT. If at the end of the first year of performance under this Agreement and each year thereafter, the Consumer Price Index for Urban Wage Earners and Clerical Workers of the Metropolitan area in which Client is located presently published by the Bureau of Labor Statistics of the Department of Labor, is higher than the Consumer Price Index on the first day of the month in which this Agreement becomes effective (the "Base Index"), then at the end of the first year and at the end of each of the remaining years of this Agreement, the price to be paid by Client to SCT hereunder for the next ensuing year shall be adjusted accordingly to reflect the percentage increase of the then current Consumer Price Index over the Base Index.

18. CLIENT'S CONTRACT ADMINISTRATOR. The Client shall appoint a Contract Administrator who will be delegated the duty and responsibility of maintaining liaison with SCT and to oversee a successful and harmonious performance of this Agreement.

19. NOTICES. Any notice provided for herein shall be given in writing and transmitted by personal delivery, facsimile transmission, courier or prepaid first class registered or certified mail addressed as follows:

Client      City of Fort Wayne, Indiana  
                Controllers Office  
                9th Floor, City/County Building  
                One Main Street  
                Fort Wayne, Indiana 46802  
                ATTENTION:      C. David Silletto

SCT:      Systems & Computer Technology Corporation  
                Great Valley Corporate Center  
                Four Country View Road  
                Malvern, Pennsylvania 19355  
                ATTENTION:      Vice President, Information Resource  
                               Management

With a copy to:      Systems & Computer Technology Corporation  
                              Great Valley Corporate Center  
                              Four Country View Road  
                              Malvern, Pennsylvania 19355

ATTENTION: General Counsel

or to such other persons or addresses which the Client or SCT may from time to time designate in writing.

20. NON-SOLICITATION. Neither Client nor SCT shall solicit or recruit or assist another party in soliciting or recruiting any employees of the other for a period beginning with the Effective Date and extending for six (6) months after the expiration or earlier termination of this Agreement, without the prior express written permission of the other party.

21. MISCELLANEOUS.

(a) Each paragraph, clause and provision of this Agreement is severable from the others and if one provision or part hereof is declared invalid, the remaining provisions shall nevertheless remain in full force and effect.

(b) This Agreement, together with the Exhibits hereto, constitutes the entire Agreement of the parties on the subject-matter hereof, and no other agreement or understanding, verbal or otherwise, on the subject-matter hereof exists between the parties at the time of execution hereof. This Agreement shall not be changed, modified, or discharged except by written instrument executed by both parties.

(c) All terms and words used in this Agreement regardless of the number and gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context or sense of this Agreement or any paragraph or clause herein may require, the same as if such words have been fully and properly written in the number and gender.

(d) The headings of sections and paragraphs, if any, to the extent used herein are for convenience and reference only, in no way define, limit or describe the scope or intent of any provision hereof, and therefore shall not be used in construing or interpreting the provisions hereof.

(e) This Agreement does not constitute SCT as the agent or representative of the Client for any purpose other than that which may be expressly set forth herein.

(f) This Agreement shall be construed in accordance with the laws of the State of Indiana.

(g) This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused their names to be affixed hereto as of the date first above written.

SYSTEMS & COMPUTER  
TECHNOLOGY CORPORATION

THE CITY OF  
FORT WAYNE, INDIANA

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT A

### SCOPE OF SERVICES

SCT shall provide the following General Scope of Services described below during the term of this Agreement.

1. SCT will provide a computing management team to manage Client's Data Processing Services. SCT will assume responsibility for day-to-day management of Client's Data Processing Center, transitioning certain current City data processing staff to SCT employment.
2. SCT will develop, within approximately six (6) months of the Effective Date, a Long Range Computer Services "Master Plan" for driving computing decisions over a multi-year period.
3. SCT will develop and implement, within approximately sixty (60) days of the Effective Date, a "Short Term Improvement Plan" focused on priority issues requiring immediate attention, including such matters as completion and implementation of the Payroll System and stabilization of Client's services of existing computing environment.
4. SCT will introduce and implement the user liaisons, who will serve as the communications bridge between the user departments and computer center personnel and provide training for the user staff.
5. SCT will from time to time provide the services of technical specialists to deliver services outlined herein. Such technical specialists will have specific subject-matter knowledge in such areas as public safety, finance, community development, economic development, systems development, computing services, and operations management.
6. SCT will assist the Department of Public Safety to implement its Information System.
7. SCT will introduce and put in place certain methodologies from its Strategic Tactical Excellence Program (STEPs) including security; quality assurance; documentation; and project management and control.
8. SCT will provide formalized status reporting to the Data Processing Steering Committee and City management on a periodic basis.
9. SCT will provide computer literacy training programs for Client's key personnel, department heads and users.
10. SCT will provide training for and update the capabilities of Client's data processing technical support staff.
11. SCT will provide micro-support to assist Community Development and Economic Development.

12. SCT, through its management of Client's data processing operations, shall use its best efforts to maintain existing arrangements for the delivery of work to and from the Client's data processing facilities in effect as of the Effective Date.
13. SCT shall manage the processing of Client's systems applications under this Agreement following the Client's specified run instructions currently in use or as improved and manage the production of the system output formats required by the current systems application design.
14. During normal and emergency operations, the Client and SCT shall agree on delivery schedules and priorities for all system output formats and work to be furnished and all data to be submitted by SCT.
15. SCT shall manage the distribution of output material and formats to the appropriate destinations as required by the current systems applications design.
16. SCT shall manage the distribution of such systems application output formats as may be required in the conduct of the data processing functions as described herein.
17. With prior written approval of the Client, SCT shall coordinate the acquisition, substitution or modification of all data processing equipment, systems, supplies, maintenance and the like.

In addition, SCT will provide, among other projects to be agreed upon by SCT and Client, the following Services during the term of this Agreement.

1. Modify TRES to handle an expected Sewer rate change.
2. Develop and implement enhancements to TRES to add Credit History and Deposit reporting.
3. Investigate the feasibility of using hand held automated meter readers.
4. Investigate replacement for TRES.
5. Installation of Release 6.0 of CYBORG when it becomes generally available.
6. Implement the Human Resources function which has been partially installed and tested but has no implementation or training schedule.
7. Reduce of the number of different pay runs throughout the City from 7 to 2.
8. Add vacation, sick, and compensatory time to the current payroll check stubs.
9. Develop new reports for Vacation Costing Analysis and Vacation Scheduling.
10. Enhance the CYBORG/LGFS interface to allow for the passing of additional information such as PERF.
11. Install Release 10.0 of LGFS when it becomes generally available.

12. Investigate the possibility of acquiring the Inventory module.
13. Modify the CICS Command Level transactions from conversational to pseudo-conversational in the Care System.
14. Investigate the possibility of acquiring a City/County comprehensive law enforcement system.
15. Implement a Water Subsystem currently under development by outside contractors, from IMS.
16. Investigate the possibility of developing maps for the City agencies using AUTOCAD Mapping.
17. Install the new release of CEO when it becomes generally available.
18. Investigate the possibility of merging CEO facilities for the City and the County.
19. Review the requirements and propose a viable solution for this department's pursuit in acquisition of Data General software and hardware through a Federal Grant.
20. Production implementation of the Barrett Bonds application developed in-house.
21. Move the optical fiber connected IBM printer to the County computer room.
22. Move the consoles connected to the Client systems to the County computer room.
23. Move the Operations staff not required to run the Data General mainframe to the County computer room.
24. Cross-train the Operations staff to be able to run both City and County production jobs.
25. Move the Data General mainframe and its associated peripherals to the County computer room.
26. Move the remaining Operations staff to the County computer room.
27. Cross-train the Operations staff to be able to run IBM, Data General, and UNISYS hardware.
28. Begin providing telecommunications support to the Client departments.
29. Connect the City and County ROLM systems.
30. Investigate cost savings resulting from the combining of telephone and computer network facilities.
31. Augment the Technical Services group by one position and concentrate all technical services functions in this group.

32. Review the different software contracts for packages and tools to allow the City and County departments to share those products.
33. Migrate from OWL to ICCF and rewrite the OWL PROCS in ICCF.
34. Combine the City and County production and batch systems.

**EXHIBIT B**

	<u>1988</u>	<u>1989(1)</u>	<u>1990(1)</u>	<u>1991(1)</u>	<u>1992(1)</u>	<u>1993(1)</u>	<u>1994(1)</u>
JAN	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
FEB	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
MAR	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
APR	\$	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
MAY	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
JUN	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
JULY	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
AUG	\$ 54,512	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
SEP	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
OCT	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
NOV	\$ 54,412	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 39,876	\$ 25,426
DEC	\$ 54,416	\$ 39,887	\$ 39,887	\$ 39,887	\$ 39,887	\$ 39,987	\$ 25,499
TOTAL	\$ 435,300	\$ 478,523	\$ 478,523	\$ 478,523	\$ 478,523	\$ 478,523	\$305,185

(1) The amounts included in the above table for these years do not include any cost of living adjustments. These amounts shall be increased for such cost of living adjustments for each year in accordance with the provisions of Section 17 of this Agreement.

